Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 311 (S/B) of 2002

Dr. H.N. Dixit S/o Late Prayag Dutt Dixit,
R/o "Shivarpan", Nawabi Road, P.O. Bhotia
Parao, Haldwani, District-Nainital.

..... Petitioner.

Versus

(1) State of Uttaranchal through
Chief Secretary,
(2) State of Uttar Pradesh through
Chief Secretary,
(3) Director, Higher Education, Uttaranchal,
Dehradun,
(4) Director, Higher Education, Directorate of
Higher Education, U.P., Allahabad,
(5) Finance Controller, Higher Education,
U.P., Allahabad,
(6) Principal, Moti Ram Babu Ram Post
Graduate College, Haldwani District-Nainital.

..... Respondents.

.....

Hon'ble P.C. Verma,J.

Hon'ble B.S. Verma,J.

This petition has been filed by the petitioner seeking writ of mandamus commanding the respondents to fix his pension and other retiral dues taking into consideration his services from 10.07.1961 to 30.06.1995.

The petitioner was appointed on 12.07.1961 as Head of the Department of Sociology in SAV Degree College, Bharthana (Etawah) U.P., which was affiliated to the Agra University. He rendered his continuous services in the aforesaid College upto 07.07.1964 and thereafter he joined

as Head of the Department of Sociology in Moti Ram Babu Ram Degree College, Haldwani (District-Nainital) on 08.07.1964 and since then he rendered his continuous service on the said post till the date of his retirements i.e. 30.06.1995.

The grievance of the petitioner is that he has not been paid the gratuity till date. Therefore, the respondents are directed to release the gratuity to the petitioner within one month from today. Interest at the rate of 8% (eight per cent) per annum shall also be paid on the delayed payment of gratuity from the date it was due till the date it is paid.

So far as other pensionary benefits regarding the calculation of length of service, according to the petitioner, 33 years length of service should have been counted for the purpose of pensionary benefits. While according to the respondents, the services have been counted from the date the institution became Government College i.e. 29.03.1982.

Learned counsel for the petitioner submits that the stand taken by the Government in his counter affidavit is contrary to the amalgamation order dated 30.09.1999, by which the institution was merged from the private aided Degree College to the Provincial Degree College w.e.f. 26.03.1982. This amalgamation order provides that the service rendered in the institution by the teachers shall be taken into account for the purpose of pensionary benefits and counting this past service the seniority and promotions have already been given to the petitioner.

In view of the rival contentions of the parties, so far as counting of past service for the purpose of determination of pension, it is provided that the representation of the petitioner shall be considered by the respondents within a month in the light of amalgamation

order, contained in Annexure No. 6 to the writ petition, and letter of Joint Director (Higher Education) Uttarakhand dated 28.08.2000 to the respondent No.5, contained in Annexure No. 14 to the writ petition.

With the aforesaid observations the petition is disposed of finally.

(B.S. Verma,J.) **(P.C.Verma,J.)**

09.08.2004
P.Singh